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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Application of Daryl D. Starr et al. | | Ser. No: | 09/675,700 |
| Filing Date: | September 29, 2000 | Examiner: | Barbara N. Burgess |
| Atty. Docket No: | ALA-010B | GAU: | 2157 |

For:     INTELLIGENT NETWORK STORAGE INTERFACE DEVICE


June 18, 2007


MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


### Supplemental Reply to Fifth Non-Final Office Action

Sir:

On June 13, 2007, responsive to an Office Action dated March 20, 2007, applicants submitted a "Reply to Fifth Non-Final Office Action." In further response to that Office Action, please consider the following Remarks.

<u>Remarks</u>

I. <u>Introduction</u>

On June 13, 2007, responsive to an Office Action dated March 20, 2007, applicants submitted a "Reply to Fifth Non-Final Office Action." Applicants' attorney earlier left a telephone message with the Examiner inquiring about Provisional Application No. 60/192,085 (hereinafter "the '085 app."), which was required to support the rejections of the application because U.S. Published Application No. 2001/0048681 to Bilic et al. (hereinafter "Bilic") was filed on March 16, 2001, well after the filing date of the present application. In that telephone message, applicants' attorney requested the Examiner to provide a copy of the '085 app., and asked whether the Examiner had looked at the '085 app., but the Examiner did not respond. Applicants' attorney has since independently obtained a copy of the '085 app., and this Supplemental Reply is directed to information involving the '085 app. For the Examiner's convenience, a copy of the '085 app. is enclosed.

According to MPEP §2136.03, a provisional application filing date can only serve as a critical reference date "**if** the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph." Applicants respectfully assert that the '085 app. does not support any of the rejections of the Final Rejection that are based on Bilic, as explained below. It is worth noting at this point, however, that the '085 app. at best describes a wish list, without ever describing in any detail how to implement the wishes of the list.

II. <u>35 U.S.C. §103</u>

  A. <u>Claims 1, 3-4, 6-7, 21, 23-24 and 26-33</u>

Claims 1, 3-4, 6-7, 21, 23-24 and 26-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,650,640 to Muller et al. (hereinafter "Muller") in view of Bilic. Regarding claim 1, the Office Action states, in part:

> Muller does not explicitly disclose:
> - selecting whether to process said packet by said computer or to send data from said packet to the storage unit, thereby avoiding the computer.

However, in an analogous art, Bilic discloses a protocol processor arranged to select the group of packets for reassembly depending on which of the communication protocols was used in transmitting the packets. It controls the host interface logic so to write the data packets that do not belong to the identified group to the host memory without reassembly processing by the network interface device (paragraphs [0013, 0023, 0026, 0043, 0046]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Bilic's selecting whether to process packet or send to storage, thereby avoiding the computer in Muller's system to reduce the burden of frame reassembly imposed on the host processor.

Applicants initially note that the '085 app. consists merely of two separate, one-page abstracts, one of which has a different title and appears to involve a different invention. No Specification, Drawings or Claims are included in the '085 app.

Applicants respectfully assert that there is simply no support in the '085 app. for the rejection of the limitation in claim 1 of "a mechanism for … selecting whether to process said packet by said computer or to send data from said packet to the storage unit, thereby avoiding the computer." Indeed, even the portion of Bilic from which the Office Action attempts to conjure some support for that limitation ("paragraphs [0013, 0023, 0026, 0043, 0046]") is absent from the '085 app.

Because neither Muller nor the '085 app. teach or suggest "a mechanism for … selecting whether to process said packet by said computer or to send data from said packet to the storage unit, thereby avoiding the computer," applicants respectfully assert that claim 1 and all the claims that depend from claim 1 are nonobvious over Muller in view of Bilic.

Regarding claim 21, the Office Action states, in part:

> Muller does not explicitly disclose:
> - selecting whether to process said packet by said computer or to send data from said packet to the storage unit, thereby avoiding the computer.
>
> Bilic discloses a protocol processor arranged to select the group of packets for reassembly depending on which of the communication protocols was used in transmitting the packets. It controls the host interface logic so to write the data packets that do not belong to the identified group to the host memory without reassembly processing by the network interface device (paragraphs [0013, 0023, 0026, 0043, 0046]).